



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DW Jun-06

PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
SUITE 2600
ONE METROPOLITAN SQUARE
ST. LOUIS MO 63102

COPY MAILED

JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald Roger I. Morlen	:	DECISION ON PETITION TO
Application No. 10/661,981	:	WITHDRAW HOLDING OF
Filed: 12 September, 2003	:	ABANDONMENT
For: FISHING LURE	:	

This is a decision on the petition filed on 9 May, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the final Office action mailed on 17 December, 2004, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 22 July, 2005. A petition to withdraw the holding of abandonment was filed on 18 August, 2005, and was dismissed on 9 November, 2005.

Petitioner asserts that the final Office action was never received.

In the absence of any irregularity in the mailing of the final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner

stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioners at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, petitioner has presented a statement by registered patent attorney Patrick W. Rasche, stating that after examining the file jacket and docket records for this application, the final Office action was never received. A copy of the docket report is referenced in the petition and enclosed therewith.

The petitioners have made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application file is being referred to Technology Center 3600 technical support staff for remailing of the Office action mailed 17 December, 2004. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions